

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1, 2, 3, 7, 9, 10, 13, and 14 have been amended. New claims 16-25 have been added. Support for all amendments and new claims can be found throughout the specification. No new matter has been added.

Claims 1-9 and 11-15 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,258,766 ("Romack"). Claim 10 has been rejected under 35 U.S.C. 103(a) as obvious over Romack in view of U.S. Patent 5,676,705 ("Jureller").

Claims 1-3 and 5-6 have been provisionally rejected for obviousness-type double patenting over claims 1-3 of copending U.S. application no. 10/554,781. Claims 8-9 and 11-12 have been provisionally rejected for obviousness-type double patenting over claims 1-3 of copending U.S. application no. 10/518,921.

Anticipation Rejection

i. Claims 1 and 7

In rejecting claims 1 and 7, the Examiner cites column 3, lines 20-40 of Romack as teaching a "fatty alcohol". As claims 1 and 7 do not recite a "fatty alcohol" --- but rather a fatty alcohol branched polyalkyloxylate --- Applicants have assumed, for the sake of argument herein, that it is the contention of the Examiner that the cited portion of Romack teaches a fatty alcohol branched polyalkyloxylate.

The cited portion of Romack provides:

"Examples of suitable co-solvents include, but are not limited to, aliphatic and aromatic hydrocarbons, and esters and ethers thereof, particularly mono and di-esters and ethers (e.g., EXXON ISOPAR L, ISOPAR M, ISOPAR V, EXXON EXXSOL, EXXON DF 2000, CONDEA VISTA LPA-170N, CONDEA VISTA LPA-210, cyclohexanone, and dimethyl succinate), alkyl and dialkyl carbonates (e.g., dimethyl carbonate, dibutyl carbonate, di-t-butyl dicarbonate, ethylene carbonate, and propylene carbonate), alkylene and polyalkylene glycols, and ethers and esters thereof (e.g., ethylene glycol-n-butyl ether, diethylene glycol-n-butyl ethers, propylene glycol methyl ether, dipropylene glycol methyl ether, tripropylene glycol methyl ether, and dipropylene glycol methyl ether acetate), lactones (e.g., (gamma)butyrolactone, (epsilon)caprolactone, and (delta) dodecanolactone), alcohols and diols (e.g., 2-propanol, 2-methyl-2-propanol, 2-methoxy-2-

propanol, 1-octanol, 2-ethyl hexanol, cyclopentanol, 1,3-propanediol, 2,3-butanediol, 2-methyl-2,4-pentanediol) and polydimethylsiloxanes (e.g. decamethyltetrasiloxane, decamethylpentasiloxane, and hexamethyldisiloxane), etc.”

(Col. 3, lines 20-40)

Applicants respectfully point to the fact the cited portion of Romack not only fails to set forth any fatty alcohol polyalkyloxylates --- but also fails to set forth any fatty alcohol branched polyalkyloxylates --- as is called for in pending claims 1 and 7. Moreover, these “co-solvents” of Romack are not taught by Romack as being useful in a conditioning process (as is called for in pending claims 1 and 7). As such, not only are Romack’s co-solvents different materials than the conditioning agents called for in pending claims 1 and 7, they are also used for a different purpose. As such, claims 1 and 7 are believed to be patentable over the cited reference.

ii. Claims 2-6

In rejecting claims 2-6, the Examiner cites column 3, lines 27-33 of Romack as teaching “C₁-C₁₅ alcohol of poly alkylene glycols and ether (oxylate), and ether (oxylate), di/tripropylene glycol ether ...”. (emphasis added). This cited portion of Romack provides:

“...dimethyl carbonate, dibutyl carbonate, di-t-butyl dicarbonate, ethylene carbonate, and propylene carbonate), alkylene and polyalkylene glycols, and ethers and esters thereof (e.g., ethylene glycol-n-butyl ether, diethylene glycol-n-butyl ethers, propylene glycol methyl ether, dipropylene glycol methyl ether, tripropylene glycol methyl ether, and dipropylene glycol methyl ether acetate), lactones (e.g.,...”

(col. 3, lines 27-33)

Applicants respectfully point to the fact that this cited portion of Romack fails to contain any reference to C₁-C₁₅ alcohols.

In fact, even if one were to look to other portions of Romack where C₁-C₁₅ alcohols are mentioned, such as, for example, at column 3, lines 15-19 of Romack, this additional portion of Romack merely provides that:

"Additional compounds such as one or more alcohols (e.g., from 0 or 0.1 to 5% of a C1 to C15 alcohol (including diols, triols, etc.)) different from the organic co-solvent may be included with the organic co-solvent."

(col. 3, lines 15-19) (emphasis added)

In this regard, the C₁-C₁₅ alcohols referred to by the Examiner, are explicitly discussed by Romack as being separate from the poly alkylene glycol and ether co-solvents discussed by Romack at col. 3, lines 27-33 --- and not a part "of" these co-solvents, as is suggested by the Examiner.

Additionally, while the Examiner cites Romack as teaching the formula: "CH₃(CH₂)₇O[CH₂CCH₃O]₂H, wherein R¹ is methyl, A is alkyleneoxy group, R² is hydrogen, and n=2", Applicants respectfully point out that:

1. While the Examiner has chosen R¹ to be "methyl", the pending claims define R¹ to be C₈ to C₃₀ (not methyl);
2. Group "A" is not recited in the pending claims; rather, "AO" is recited; and
3. Group "n" is not recited in the pending claims; rather, "m" is recited.

In sum, Romack fails to teach or suggest a conditioning process using a conditioning agent that includes the specific fatty alcohol branched polyalkyloxylates recited in pending claims 2-6. Accordingly, claims 2-6 are believed to be patentable over the cited reference.

iii. Claims 8-9 and 11-14

For at least the reasons discussed with respect to the rejections of claims 1-7, claims 8-9 and 11-14 are believed to be patentable over the cited reference. Specifically, for example, the Romack reference fails to teach or suggest a conditioning agent that comprises at least one fatty alcohol branched polyalkyloxylate.

Obviousness Rejection

As discussed above with respect to the anticipation rejection, Romack fails to teach or suggest a conditioning process using a conditioning agent that includes at least one fatty alcohol branched polyalkyloxylate or fatty acid branched polyalkyloxylate. The Jureller reference fails to cure these deficiencies of Romack. For at least this reason, claim 10 is believed to be patentable over the cited references.

Double Patenting Rejection


With respect to the provisional obviousness-type double patenting rejections, Applicants will address these rejections upon indication of allowability of the claims.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

JONES DAY

By: 

David M. Mott
Registration No. 47,808
Direct No. (202) 879-3674

Paul L. Sharer
Registration No. 36,004
Direct No. (202) 879-5481

PLS/DMM/bz
Intellectual Property Group
1909 K Street, N.W.
Washington, D.C. 20006-1101
(202) 263-3000 Telephone
(202) 263-3300 Facsimile